



FACT SHEET



THE UNITED STATES' APPROACH TO VERIFICATION, COMPLIANCE ASSESSMENT AND COMPLIANCE ENFORCEMENT

Verification, compliance assessment and compliance enforcement are the three components of the U.S. policy process in which information about a country's actions is weighed against its obligations and commitments, and if it is determined that the country is not fulfilling its obligations and commitments, steps are identified and taken to induce or enforce compliance.

The first step of this process is to assess the extent to which an agreement or commitment can actually be verified. This step is undertaken by the United States before we enter into negotiations for a new agreement, during its negotiation as changes to the agreement are considered, and after an agreement has been concluded; or, with respect to a commitment, when the other state or states enter into the commitment with the United States.

The second step in this process is an assessment of the compliance of parties to the agreement or commitment, once it has entered into force.

The final step in this process is compliance enforcement: the determination and implementation of steps to bring a party back into compliance.

Many consider these factors – verification, compliance, and enforcement – as separate and separable activities. However, like a 3-legged

stool, one or two legs are not enough for the stool to stand; all three are necessary and interdependent. Together, they are the keys to our collective ability to achieve the security benefits we all seek from arms control, nonproliferation and disarmament agreements and commitments.

How Does the U.S. Reach Noncompliance Judgments?

U.S. law requires that the President annually submit reports, in classified and unclassified form, to the U.S. Congress on Adherence to and Compliance with Arms Control, Nonproliferation and Disarmament Agreements and Commitments. These reports address both U.S. adherence to its obligations and U.S. concerns regarding the compliance of other States Party with agreements and commitments to which the U.S. is party. Both because assessments of compliance are required by law and because in the United States such assessments are a critical component of U.S. policy, the U.S. takes the compliance assessment process very seriously, and applies the highest standards of analytical rigor in reaching the judgments reflected in these reports.

Initial indications of a potential compliance problem can come from a broad array of information, including satellites, international organizations, diplomats, or even revelations of a

private citizen. The United States uses whatever information it can obtain, even if it is not “technical.” While all information, whatever its source, warrants evaluation, information that can be independently confirmed is considered to be the strongest information, especially when it can be confirmed from multiple sources. All nations have (or could have) valid sources of information relevant to assessing compliance concerns.

It is always important – and sometimes decisive – to clearly establish the precise obligation under review. If an issue has been discussed with the party in question, the U.S. will closely examine that party’s statements to determine if they resolve our concerns or can help narrow the range of outstanding questions.

The United States weighs the best available information regarding the actions and activities of a country against that country’s obligations in order to form a compliance assessment and to reach a finding. If the information is not sufficient to reach a firm finding of a violation, the United States will caveat its finding by explicitly noting uncertainties or ambiguities in the information. Whenever possible, the United States distinguishes between inadvertent violations and deliberate ones, because this distinction can have an important bearing on what action will be taken to rectify the problem. The United States also endeavors to communicate the degree of seriousness of a violation and to identify the steps that might be needed to bring the party back into compliance or to respond in other ways to the concern.

Making a determination as to when another country is in violation of its international obligations is not a simple matter. The process is time-consuming, rigorous and systematic. The Bureau of Verification and Compliance in the U.S. State Department is responsible for managing the process and for the preparation of the annual compliance reports (and also of other verification and compliance reports to the U.S. Congress, including verifiability assessments of potential agreements). These reports are prepared in consultation and coordination with other relevant government departments and

agencies, including the Departments of Defense and Energy and the intelligence community, which provides intelligence information regarding the activities of other states. But, as noted above – assessments of compliance are policy judgments and necessarily consider a much wider range of information. The President is the ultimate decision maker in instances in which departments and agencies have differing views.

As do other countries, the United States rests its safety and security in part upon other countries’ compliance with those agreements and commitments. Therefore, the compliance assessment process is, for us, a necessary early warning call to action.

When Is Verification Effective?

By law, the Secretary of State is to report to the U.S. Congress “on a timely basis, or upon request by an appropriate committee of Congress,” the degree to which components of any arms control, nonproliferation, or disarmament agreement that has been concluded by the United States can be verified. In addition, upon the request of the chairman or ranking minority member of the Senate Committee on Foreign Relations or House International Relations Committee, the Secretary is to submit a report regarding the degree of verifiability of arms control, nonproliferation, or disarmament proposals presented to or by the United States. Verifiability assessments are to be developed assuming that all measures of concealment not expressly prohibited could be employed. In the Report of the Senate Committee on Foreign Relations that accompanied the legislation establishing these requirements, the Committee highlighted its understanding of what is meant by “effective verification.” The Committee concluded that “‘effective verification’ consists of: (1) a ‘high level of assurance’ in the United States’ ability to detect (2) a ‘militarily significant’ violation in (3) a ‘timely fashion’”. Moreover, the Committee concluded that an effective verification regime should enable detection of patterns of marginal violation.

Some have asked if the United States seeks “perfect verification.” It does not. Indeed, there is no such thing as perfect verification. The term “effectively verifiable” does not, and should not, be taken to mean that there is, or can ever be, *certainty* that a violation will be detected. This phrase indicates the aspiration to achieve *reasonable confidence* – under the circumstances – that detection of noncompliance will occur in time for appropriate responses to be undertaken.

Determining the extent to which an agreement can be verified necessarily involves a number of variables that vary from one proposed agreement to the next – and which sometimes hinge upon specific nuances of phrasing or the nature of the constrained activities. The United States considers an arrangement or treaty to be effectively verifiable if the degree of verifiability is judged sufficient given the compliance history of the parties involved, the risks associated with noncompliance, the difficulty of response to deny violators the benefits of their violations, the language and measures incorporated into the agreement and our own national means and methods of verification. The degree of verifiability must be high enough to enable the United States to detect noncompliance in sufficient time either to have the violation reversed or – particularly in the case of intentional noncompliance – to reduce the threat presented by the violation and to deny the violator state the benefits of its wrongdoing.

International organizations and mechanisms can provide useful and essential input to nations for their consideration in making these assessments. They can provide useful fora for sharing information, for sharing judgments and for deliberating response options. But, it is the member states of those organizations – acting individually, as a group or through an executive board – that are charged with reaching compliance judgments.

It is a common misperception that a combination of international data declarations, international cooperative measures (including technical measures) and on-site inspection regimes by themselves will be sufficient for detecting

noncompliance. In fact, data declarations, cooperative measures and on-site inspections are useful tools for investigating indications of noncompliance – and have been used effectively by the IAEA in Iran, for example – and they are useful tools for detecting inadvertent violations. However, inspections provide information according to the agreed access and collection capabilities negotiated by the parties, and only provide such information as is available at the specific time and place of the inspection. The effectiveness of cooperative measures, such as remote cameras and seals for continuous monitoring, is limited to the locations where they are employed.

Some agreements provide for challenge or suspect site inspections in an effort to address these concerns. However, the inspectors still must know where to look. And, if they find the right place to look, there must be some means of determining whether the activities at that location are permitted or prohibited. Cooperative measures, including challenge or suspect site inspections, that cannot make a significant contribution to detecting noncompliance cannot make a significant contribution to verification and therefore, may build a false sense of security.

To increase the likelihood that noncompliance – especially undeclared activities at undeclared locations – will be detected, one must be able to draw on all sources of information, both national and international. National means and methods of verification are thus necessarily a critical part of every approach to verification.

After Detection – What?

Detecting violations is not enough. What really counts is to ensure that there are sufficient consequences to a violation once it has been detected. Only by making violators face consequences for their violations, especially denial of the benefits of their noncompliance, can they be expected to take compliance seriously, and only by enforcing consequences will other would-be violators be deterred. These consequences may be political, economic, or

ultimately military, and may be undertaken by international organizations or nations acting individually or together.

If arms control, nonproliferation and disarmament agreements and commitments are to support the security of all nations, then all nations must respond when confronted with noncompliance. Unilateral U.S. action to encourage compliance is not enough. Detecting a violation is not an end in itself; it is a call to action. Without strict compliance and without the concerted action of all nations to insist upon strict compliance – and to hold violators accountable for their actions – the national security of all nations will erode and global stability will be undermined.

For further information please visit:

<http://www.state.gov/t/>

00 1 (202) 647-5315